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**FEB 21 2002**

**OFFICE OF PETITIONS**

In re Application of  
Huang, et al.  
Application No. 09/240,833  
Filed: February 1, 1999  
Attorney Docket No. 147268.00261

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed January 30, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 1, 2001. A Notice of Abandonment was mailed on September 25, 2001.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (1), the required reply. Petitioner has failed to submit a reply to the non-final Office action mailed January 30, 2001.

A copy of the January 30, 2001 Office action is enclosed for petitioner's convenience.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and

circumstances of such delay.<sup>1</sup> In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                   Commissioner for Patents  
                                 Box DAC  
                                 Washington, D.C. 20231

By FAX:                   (703) 308-6916  
                                 Attn: Office of Petitions

By hand:                   Office of Petitions  
                                 2201 South Clark Place  
                                 Crystal Plaza 4, Suite 3C23  
                                 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Beverly M. Flanagan  
Supervisory Petitions Examiner  
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Office of the Deputy Commissioner  
for Patent Examination Policy



Cliff Congo  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enc: Office action, mailed January 30, 2001 (6 pages)

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<sup>1</sup> See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).